

Section 7.7

Registered Label Delivered With the Pesticide - FAC §12973

Question posed at the Roundtable	<p>This document provides guidance on the following question posed at the Hearing Officer Roundtable:</p> <ul style="list-style-type: none">• What evidence is necessary to prove that the registered label was delivered with the pesticide, an element of a Food and Agricultural Code (FAC) section 12973 violation?
FAC §12973	<p>FAC section 12973 states, “The use of any pesticide shall not conflict with labeling registered pursuant to this chapter which is delivered with the pesticide or with any additional limitations applicable to the conditions of any permit issued by the director or commissioner.”</p>
Elements of FAC §12973	<p>The elements of FAC section 12973 are use of:</p> <ul style="list-style-type: none">• A registered pesticide• That pesticide in conflict with the registered label delivered with the pesticide or• That pesticide in conflict with any permit condition(s) issued by the Director or county agricultural commissioner (CAC). <p><i>Note: There can be variations in analysis “style” when determining the “elements” of the violation. Occasionally, the number of elements varies.</i></p>
Supplemental labeling and supplemental labels	<p>“Supplemental labeling” is a term used to describe partial labeling which includes uses, use directions, or other instructions which differ from those on the registered label. Supplemental labels are changed by the registrant and approved by the Department of Pesticide Regulation (DPR) as part of the accepted (registered) labeling and must be delivered with the pesticide by the registrant or supplemental distributor. Therefore, “use shall not conflict with labeling” includes supplemental labeling.</p> <p>Product bulletins or technical information bulletins (TIB) are not “supplemental labeling” unless they have been accepted by DPR as part of the registered label.</p>

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How and where do we get proof that a label/ supplemental label is registered?

To check on the registration status of a pesticide, log onto the DPR Web site: [<www.cdpr.ca.gov>](http://www.cdpr.ca.gov).

From the home page select “*Look up pesticide products.*” This page allows a label search using any of the following variables:

- Product name;
- California registration number (this number may be the EPA registration number – without the alpha code);
- Site code; or
- Chemical code.

If you do not have access to the Internet, call the DPR Label Resource Center at (916) 324-0399. You may contact the Center for copies of any registered labeling (including supplemental labeling).

For a CAC to obtain proof that a pesticide product label is DPR-registered, DPR will issue a “Certification of Records.” This document will be signed by the DPR Registration Branch Chief, certifying that the pesticide label is duly registered and on file with the Department.

Preparing a case for an enforcement action

When you prepare a case for an enforcement action specific to the pesticide product label at issue, you may contact the DPR Label Resource Center for this document. Do not request a copy of the “Certification of Records” unless you are preparing a case for an enforcement action and anticipate having to introduce the document as a piece of evidence.

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What kind of evidence would prove “delivered with the pesticide”?

The forms of evidence to prove “delivered with pesticide” may include any of the following:

1. A statement from the user, dealer, operator, or employer regarding the labeling accompanying the pesticide.
2. A photograph of the actual pesticide container at the use site showing the label, storage site, etc.
3. The actual label from the container that was at the use site, storage site, etc.
4. A photograph of the labeled container at the site of the violation showing something attributable to the site, i.e. the company signs or building, or testimony from the person who took the photograph specifying where the photograph was taken. Or,
5. A photograph of the container, including an employee or user/handler or county staff taken at the time of the violation.

References

- Example “Certification of Records” – sample document
 - FAC section 12973
 - Hearing Officer Sourcebook, Second Edition, May 1995
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